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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,456	04/12/2004	Sanjay Shukla	35484US1	2833
116	7590	07/12/2005	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			HOANG, TU BA	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,456

Applicant(s)

SHUKLA, SANJAY

Examiner

Tu Ba Hoang

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-36 is/are pending in the application.
- 4a) Of the above claim(s) 7-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/06/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 3742

Inventorship

In view of the papers filed June 20, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(b). The inventorship of this application has been changed by adding Gary W. Fisher.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2 and 5-6, drawn to a multiple-zone power control system and method of reducing inadvertent power activation, classified in class 219, subclass 482.
- II. Claims 7-11, drawn to another multiple-zone power control system with function key, classified in class 219, subclass 507.
- III. Claims 12-25, drawn to a power control system with user interface[, classified in class 219, subclass 480.
- IV. Claims 26-36, drawn to a cook top, classified in class 219, subclass 457.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I, including the subcombination of the touch-sensitive key, which has separate utility such as for alternately activating and deactivating while reducing inadvertent power activation during cleaning with a predetermined key-touch duration (evidence also shown by the process claims 5-6); the invention II, including the use of a plurality of such touch-sensitive keys used as a on/off key in combination with a function key, which has separate utility such as for preventing the activation of a function of a designated control zone even when the on/off key was on or touched; the invention III, including the use of such subcombination in combination with a communication bus and user interface, which has other separate utility such as for inputting and displaying control data for controlling the power controllers; and the invention IV, including such subcombination as set forth in combination with particular heating constructions or patterns, which has other separate utility such as for selectively providing power at a selected level according to the respective operating mode and predetermined sequence. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for each one of Groups II, III, and IV and vice versa, restriction for examination purposes as indicated is proper.

During a telephone conversation with Aaron A. Fishman on July 07, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-2 and 5-6. Affirmation of this election must be made by applicant in replying to

Art Unit: 3742

this Office action. Claims 7-36 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to non-elected inventions.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

The abstract of the disclosure is objected to because the phrase "a element" recited at line 12 should be changed to "An element". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the recitation of "minimum key-touch duration" at line 4 renders the claim indefinite because it is unclear if this duration the same as the one recited in the preceding claim 1 since claim 2 is supposed to further limit the preceding claim 1. And thus, "the minimum key-touch duration" latter recited at line 4 lacks antecedent basis from the preceding claim.

Claim 5 recites phrases such as "if at least one other power control zone..." recited at line 6 and "if the on/off key ..." recited at line 9 renders the claim indefinite because the claim is incomplete for merely reciting functional or operational languages based on state of condition. It is unclear what is happening next if none of the power control zone is activated or if the on/off key does not remain touched? Perhaps the word "if" would be changed to "when" or proper positive operational steps are to be recited (also note in claim 6, at line 3). The recitation of "minimum" key-touch duration at lines 7 and 10 also renders the claim indefinite since it is unclear how much would be considered "minimum". Such duration should be clearly defined.

Claim 6 is indefinite noting the recitation of "a minimum key-touch duration" at lines 4-5. Is this duration the same as the one recited in the preceding claim 5. Clarification is needed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3742

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by McIntyre et al (US 6,809,301). McIntyre et al shows all features of the claimed invention including a multiple-zone power control system (Figures 2, 4) comprising a power control unit 44 which comprises a plurality of control zones (i.e., bake, broil) for controlling the delivery of power to respective electric heating elements of the oven 10, a touch-sensitive key pad or assembly which includes a first group of keys including a touch-sensitive ON/OFF key 96 for alternately activating and deactivating a designed one of the control zones when the ON/OFF key 96 is touched by a user.

It is noted that the recitations of phrases such as "wherein when all....cold start duration" from lines 7-13 in claim 1 and from lines 1-5 in claim 2 are considered merely functional statements which do not contribute or define any further structure for the claimed invention or system and the examiner's position is that the touch key of McIntyre et al is capable of performing such functions since it has been held that the functional "wherein" or "whereby" statement does not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Atkinson et al (US 6,712,066), Blanchard et al (US 6,717,117), Butts et al (US 5,345,807), and Shukla et al (US 2003/0094448 A1).

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or fairly suggest a method of reducing inadvertent power activation during wiping/cleaning operation in which after sensing the on/off key being touched, the power control zone is activated in the presence of at least one other control zone being activated by remaining touching the on/off key for at least a key-touch duration and the on/off key remains touched for at least a cold start duration with the key-touch duration is shorter than the cold start duration in the manner recited in claim 5.


Claims 5-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Ba Hoang whose telephone number is (571) 272-4780. The examiner can normally be reached on Mon-fri from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tu Ba Hoang
Primary Examiner
Art Unit 3742

July 07, 2005